

House File 2425 - Introduced

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BY WHEELER

A BILL FOR

1 An Act creating a private instruction organization tax credit
2 available against the individual and corporate income taxes,
3 and including effective date and retroactive applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 422.11X Private instruction
2 organization tax credit.

3 1. The taxes imposed under this subchapter, less the credits
4 allowed under section 422.12, shall be reduced by a private
5 instruction tax credit equal to sixty-five percent of the
6 amount of the voluntary cash or noncash contributions made
7 by the taxpayer during the tax year to a private instruction
8 organization, subject to the maximum total value of tax credits
9 allowed in subsection 8. The tax credit shall be claimed by
10 use of a tax credit certificate as provided in subsection 7.

11 2. To be eligible for this credit, all of the following
12 shall apply:

13 a. A deduction pursuant to section 170 of the Internal
14 Revenue Code for any amount of the contribution is not taken
15 for state tax purposes.

16 b. The contribution does not designate that any part of the
17 contribution be used for the direct benefit of any dependent of
18 the taxpayer or any other student designated by the taxpayer.

19 c. The value of a noncash contribution shall be appraised
20 pursuant to rules of the director.

21 3. Any credit in excess of the tax liability is not
22 refundable but the excess for the tax year may be credited to
23 the tax liability for the following five tax years or until
24 depleted, whichever is the earlier.

25 4. Married taxpayers who file separate returns or file
26 separately on a combined return form must determine the tax
27 credit under subsection 1 based upon their combined net income
28 and allocate the total credit amount to each spouse in the
29 proportion that each spouse's respective net income bears to
30 the total combined net income. Nonresidents or part-year
31 residents of Iowa must determine their tax credit in the ratio
32 of their Iowa source net income to their all source net income.
33 Nonresidents or part-year residents who are married and elect
34 to file separate returns or to file separately on a combined
35 return form must allocate the tax credit between the spouses

1 in the ratio of each spouse's Iowa source net income to the
2 combined Iowa source net income of the taxpayers.

3 5. An individual may claim the tax credit allowed a
4 partnership, limited liability company, S corporation, estate,
5 or trust electing to have the income taxed directly to the
6 individual. The amount claimed by the individual shall be
7 based upon the pro rata share of the individual's earnings of
8 the partnership, limited liability company, S corporation,
9 estate, or trust.

10 6. For purposes of this section:

11 a. "*Eligible student*" means a student who is a member of
12 a household whose total annual income during the calendar
13 year before the student receives a grant for purposes of this
14 section does not exceed an amount equal to four times the most
15 recently published federal poverty guidelines in the federal
16 register by the United States department of health and human
17 services.

18 b. "*Grant*" means grants to students to cover all or part of
19 qualified private instruction.

20 c. "*Private instruction organization*" means a charitable
21 organization in this state that is exempt from federal taxation
22 under section 501(c)(3) of the Internal Revenue Code and that
23 does all of the following:

24 (1) Allocates at least ninety percent of its annual revenue
25 in grants for eligible students to allow them to receive
26 qualified private instructions of their parents' choice.

27 (2) Only awards grants to eligible students who reside in
28 Iowa.

29 (3) Provides grants to eligible students without limiting
30 availability to a type of qualified private instruction.

31 (4) Only provides grants to eligible students in a certain
32 geographic area within the state.

33 (5) Prepares an annual reviewed financial statement
34 certified by a public accounting firm.

35 d. "*Qualified private instruction*" means independent private

1 instruction or competent private instruction under chapter
2 299A.

3 7. *a.* In order for the taxpayer to claim the private
4 instruction organization tax credit under subsection 1, a
5 tax credit certificate issued by the private instruction
6 organization to which the contribution was made shall be
7 included with the person's tax return. The tax credit
8 certificate shall contain the taxpayer's name, address, tax
9 identification number, the amount of the contribution, the
10 amount of the credit, and other information required by the
11 department.

12 *b.* (1) The department shall authorize a private instruction
13 organization to issue tax credit certificates for contributions
14 made to the private instruction organization, limited by the
15 maximum total dollar value of the tax credits available for the
16 calendar year in subsection 8. The aggregate amount of tax
17 credit certificates that the department shall authorize for a
18 private instruction organization for a calendar year shall be
19 determined for that organization by the department equal to the
20 product of the following:

21 *(a)* The maximum total dollar value of the tax credits
22 available for the calendar year.

23 *(b)* The ratio of the number of households submitting a
24 participation form to the department for a particular private
25 instruction organization to the total participation forms
26 submitted.

27 (2) However, a private instruction organization shall not
28 be authorized to issue tax credit certificates unless the
29 organization is controlled by a board of directors consisting
30 of at least seven members. The names and addresses of the
31 members shall be provided to the department and shall be made
32 available by the department to the public, notwithstanding any
33 state confidentiality restrictions.

34 *c.* Pursuant to rules of the department, a private
35 instruction organization shall initially register with the

1 department. The organization's registration shall include
2 proof of Internal Revenue Code section 501(c)(3) status
3 and provide the geographic area the private instruction
4 organization serves. Once the private instruction organization
5 has registered, it is not required to subsequently register
6 unless the geographic area it serves changes.

7 *d.* Each household that receives funds from a private
8 instruction organization shall submit a participation form
9 annually to the department by November 1. For the 2022
10 calendar year only, each household served by a private
11 instruction organization shall submit a participation form to
12 the department by August 1, 2022.

13 8. The maximum total dollar value of the tax credits for the
14 2022 calendar year shall not exceed ten million dollars for the
15 2022 calendar year. For calendar years beginning on or after
16 January 1, 2023, the maximum total value of tax credits shall
17 not exceed twenty million dollars.

18 9. Each year by December 1, the department shall authorize
19 private instruction organizations to issue tax credit
20 certificates for the following calendar year. However, for the
21 2022 calendar year only, the department, by September 1, 2022,
22 shall authorize private instruction organizations to issue tax
23 credit certificates for the 2022 calendar year.

24 10. A private instruction organization that receives a
25 voluntary cash or noncash contribution pursuant to this section
26 shall report to the department, on a form prescribed by the
27 department, by January 12 of each calendar year all of the
28 following information:

29 *a.* The name and address of the members and the chairperson
30 of the governing board of the private instruction organization.

31 *b.* The total number and dollar value of contributions
32 received and the total number and dollar value of the tax
33 credits approved during the previous calendar year.

34 *c.* A list of the individual donors for the previous calendar
35 year that includes the dollar value of each donation and the

1 to students who reside in Iowa, must provide grants without
2 limiting the type of private instruction received, and only
3 provide grants to students in a certain geographic area.

4 The tax credit is claimed by attaching a tax credit
5 certificate to the taxpayer's tax return. A private
6 instruction organization is authorized to issue a tax credit
7 certificate in an amount determined by the department. The
8 amount available for each private instruction organization
9 is determined by multiplying the maximum total value of tax
10 credits available for the calendar year with the ratio of the
11 number of households submitting a participation form to the
12 department of revenue for a particular private instruction
13 organization to the total participation forms submitted. Each
14 household that receives funds from a private instruction
15 organization must submit a participation form to the department
16 of revenue. For calendar year 2022 the maximum total value
17 of tax credits available shall not exceed \$10 million and for
18 calendar years beginning on or after January 1, 2023, the
19 maximum total value of credits shall not exceed \$20 million.

20 The private instruction organization must report to the
21 department of revenue by January 12 of each calendar year
22 the members of the governing board, the total dollar value
23 of contributions received and the total dollar value of
24 tax credits approved, a list of donors, the total number of
25 students receiving grants for the school year, the name and
26 address of each household utilizing the grants, and the name
27 of the person providing private instruction and the number of
28 eligible students receiving private instruction by the person.

29 The bill takes effect upon enactment and applies
30 retroactively to tax years beginning on or after January 1,
31 2022.